

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Sullivan Township, Moultrie County, Illinois
Petitioner,

vs.

Union Pacific Railroad Company and the State of Illinois,
Department of Transportation,
Respondents.

T02-0093

Petition seeking an order from the Illinois Commerce Commission
authorizing permanent closure and removal of the grade crossing
located on T.R. 161A in Sullivan Township, Moultrie County,
Illinois and the trackage of Union Pacific Railway Company. DOT
No. 167 278S.

ORDER

On September 16, 2002, a Petition was filed with the Illinois Commerce Commission ("Commission") by Sullivan Township of Moultrie County ("Township") requesting that Commission incentive Funds be granted to the Township for the proposed closure of the Township Road ("TR") 161A crossing with the track of the Union Pacific Railroad Company ("UP") near Kirksville, Sullivan Township, Illinois.

On October 25, 2002, pursuant to proper legal notice, a hearing was held before a duly authorized Administrative Law Judge at the Commission's Office in Springfield, Illinois. Appearances were entered by the Moultrie County Engineer, the Sullivan Township of Moultrie County Highway Commissioner; a representative of the Illinois Department of Transportation ("IDOT") and a member of the Commission's Rail Safety Section ("Staff").

As required by the rules and regulations of the Commission, proper notice of the proposed closure of the TR 161A crossing, including notice of the public hearing at the Commission's Springfield offices, was published in the Sullivan News Progress on October 2, 2002, a newspaper of general circulation.

TR 161A has a 12-foot oil and chip surface with 3-foot shoulders on each side of the roadway and it is under the jurisdiction of Sullivan Township Highway Department. The crossing is currently equipped with crossbuck signs. The highway approach grades do not conform to the requirements of 92 Ill. Adm. Code 1535.204 in that both approach grades are in excess of 9%. A vehicle approaching the crossing from one direction cannot see a vehicle approaching

the crossing from the opposite side. The average daily traffic on the roadway is estimated to be between 12-20 vehicles per day at an unposted speed limit of 55 mph. *It is not possible to traverse the crossing at 55 mph due to the steepness of the approaches.*

The Administrative Law Judge read from a faxed letter, received and docketed on October 28, 2002, from Mr. Roy Farwell, attorney for the UP, that states the UP supports the closure of the TR 161A crossing. Train traffic consists of 27 freight trains per day at a maximum speed of 60 mph. Mr. Farwell's letter also stated that the cost to the UP for physically closing the TR 161A crossing is estimated to be \$2,733. This amount includes the cost for the removal of the crossing surface and installation of barricades. Per a private agreement between the UP and the Township, the UP is making a donation to the Township in the amount of \$17,500 if the TR 161A crossing is required to be closed by the Commission.

At the hearing on October 25, 2002, the Township Highway Commissioner provided testimony that the closure of the TR 161A (AAR/DOT 167 278S) public rail/highway at-grade crossing had been discussed by representatives of the Township, Moultrie County, the UP, IDOT, and Staff as part of a larger corridor project involving all the UP crossings in Moultrie County. While making on site inspections of the crossings, the UP inquired as to whether the TR 161A crossing could be closed and barricaded. After discussing the matter, all the parties agreed that the TR 161A crossing should be closed.

Staff recommends closure of the at-grade crossing TR 161A and approval of a transfer of \$25,000 in incentive money to the Sullivan Township Highway Department for its Motor Fuel Tax Account.

The Commission, having given due consideration to the entire record herein, finds that:

- 1) the Commission has jurisdiction over the parties hereto and the subject matter herein;
- 2) all parties agree to the closure of the TR 161A (AAR/DOT 167 278S) public highway/rail at-grade crossing; the TR 161A crossing should be closed, abolished and barricaded to vehicular traffic;
- 3) the Township shall remove, at its expense, that portion of the roadway within the railroad right-of-way and the UP shall re-establish the ditch lines on both side of the crossing;
- 4) the UP shall install a Type 3 barricade on both sides of the TR 161A crossing, said barricades conforming to the requirements of 92 Ill. Adm. Code 1535.701 and the Manual on Uniform Traffic

Control Devices; said barricades shall be maintained by the UP after installation;

- 5) the Commission finds that the closure is consistent with the policy allowing incentive grants for crossing closures and as such \$25,000 should be transferred from the Grade Crossing Protection Fund ("GCPF") to the Township's Motor Fuel Tax account.

IT IS THEREFORE ORDERED by the Commission that the TR 161A crossing (AAR/DOT 167 278S) with the track of the UP located in Sullivan Township, Moultrie County, Illinois, be, and it is hereby, required and directed to be closed, abolished and barricaded to vehicular traffic.

IT IS FURTHER ORDERED that for the closure of the TR 161A public highway/rail at-grade crossing, \$25,000 should be transferred from the GCPF to the Township's Motor Fuel Tax account.

IT IS FURTHER ORDERED that the Township shall remove that portion of TR 161A within the railroad right of way, at its own expense, to prevent its use by vehicular traffic.

IT IS FURTHER ORDERED that the UP shall install Type-3 barricades on both sides of the TR 161A crossing, said barricades shall conform to the requirements of 92 Ill. Adm. Code 1535.701 of the Commission and to the pertinent provisions of the Manual on Uniform Traffic Control Devices; said barricades shall be maintained by the railroad after installation.

IT IS FURTHER ORDERED that the closure of the TR 161A crossing shall be completed within three (3) months from the date of this Order.

IT IS FURTHER ORDERED that any person or party making a Request For Extension Of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an extension of time that exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing and Information no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

IT IS FURTHER ORDERED that Requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition

For Supplemental Order, the person must notify the Commission's Rail Safety Program administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Orders and Requests For Extensions of time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that the UP shall notify the Director of Processing and Information, Transportation Division of the Commission, within five (5) days of the completion of the work herein required of it, a National Inventory Update Report Form as notice of said completion.

IT IS FURTHER ORDERED that Township shall notify the Director of Processing and Information, Transportation Division of the Commission, within five (5) days of the completion of the work herein required of it, a written notice of said completion.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 8th day of January, 2003.

Kevin H. Wright

Chairman

